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Board of County Commissioners Agenda Request 19

Date of Meeting: March 26, 2002

Date Submitted: March 21, 2002

To: Honorable Chairman and Members of the Board
From: Herbert W.A. Thiele, Esq. County Attorney
Subject: Continuation of First and Only Public Hearing Regarding Adopting a Proposed Ordinance Creating Article IX and Sec.2-400 of Chapter 2 of the Leon County Code of Laws Relating to Local Preference in Purchasing and Contracting

STATEMENT OF THE ISSUE

Continuation of first and only public hearing to consider the adoption of a proposed ordinance creating Sec. 2-400 of the Leon County Code of Laws, relating to Local Preference in Purchasing, providing for the use of a local preference of five percent (5%) for purchases under \$250,000, and two percent (2%) for purchases of \$250,000 or more; providing for the use of a local preference of not more than five percent (5%) of the total score assigned when procurement is made through a request for proposals; providing for a definition of "local business"; and requiring a certification from vendors.

BACKGROUND

On February 12, 2002, the Board of County Commissioners of Leon County considered an agenda item regarding the granting of a preference for local businesses in the County's purchasing processes. On that date the Board voted to direct staff to bring back a proposed Ordinance implementing such a preference. While the initial agenda item only presented the issue of local preference in bidding, subsequent discussions by the Board indicated some interest in granting a local preference in the process of Requests for Proposals (RFP) as well. Therefore, the proposed Ordinance presented for the Board's consideration contains procedures for granting a local preference in both the

bid process and the RFP process.

On March 12, 2002, the Board opened the public hearing on this agenda item, but did not take action, instead continuing it until the next regular Board meeting and requested that the item be sent to the Greater Tallahassee Chamber of Commerce for review and comment in the interim.

ANALYSIS

The agenda item from the February 12, 2002 meeting of the Board of County Commissioners analyzes the pros and cons of adopting a local preference in purchasing and procurement, and is attached as hereto as Attachment 1 for your consideration.

The proposed Ordinance, which is attached hereto as Attachment 2, will create Article IX PURCHASING and Section 2-400 within Chapter 2 of the Leon County Code of Laws, to provide for a local preference in bidding of five percent (5%) for purchases under \$250,000, and two percent (2%) for purchases of \$250,000 or more; and to provide for a local preference of not more than five percent (5%) of the total score assigned when procurement is made through a request for proposals.

As RFPs are presented individually to the Board for approval, the proposed Ordinance authorizes staff to recommend for or against inclusion of a local preference in the RFP criteria based upon an analysis of the marketplace for the specific project. If the Board decides to include a local preference in the RFP criteria, it may set the percentage of such local preference up to five percent (5%) of the total assigned score for the project.

Further, the proposed Ordinance provides a definition of "local business" for use in applying the local preference in both bidding and RFPs. The definition requires that the business (1) has had a fixed office or distribution point located in and having a street address in the County for at least six months immediately prior to the issuance of the request for competitive bids or proposals by the County; (2) holds any business license required by the County, and if applicable the City of Tallahassee; and (3) employs at least one full time employee, or two part time employees, whose primary residence is in Leon County, or if the business has no employees, the business shall be at least fifty percent owned by one or more persons whose primary residence is in the County. Finally, the proposed Ordinance requires vendors to certify that

they meet the definition of a "local business."

OPTIONS

Option 1: Conduct first and only public hearing on the proposed Ordinance and adopt the proposed Ordinance.

Option 2: Do not adopt the proposed Ordinance.

Option 3: Other Board direction.

RECOMMENDATION

Option 1.

Attachments:

1. Agenda Item dated February 12, 2002.
2. Proposed Ordinance.
3. Notice of Public Hearing.
4. March 14, 2002, Letter to Tallahassee Chamber of Commerce.
5. March 19, 2002, Letter to Capital City Chamber of Commerce.

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, ADDING ARTICLE IX, SECTION 2-400, OF CHAPTER 2 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, RELATING TO LOCAL PREFERENCE IN PURCHASING AND CONTRACTING; PROVIDING FOR THE USE OF A LOCAL PREFERENCE OF FIVE PERCENT (5%) FOR PURCHASES UNDER \$250,000, AND TWO PERCENT (2%) FOR PURCHASES OF \$250,000 OR MORE; PROVIDING FOR THE USE OF A LOCAL PREFERENCE OF NOT MORE THAN FIVE PERCENT (5%) OF THE TOTAL SCORE ASSIGNED WHEN PROCUREMENT IS MADE THROUGH A REQUEST FOR PROPOSAL; PROVIDING FOR THE DEFINITION OF "LOCAL BUSINESS"; PROVIDING FOR CERTIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

Section 1. The Code of Laws of Leon County, Florida, is hereby amended by adding Article IX, Section 2-400, of Chapter 2 of the Code of Laws of Leon County, Florida, to read as follows:

ARTICLE IX. PURCHASING**Sec. 2-400. Local Preference in Purchasing and Contracting**

(a) *Preference in Bidding.* In purchasing of, or letting of contracts for procurement of, personal property, materials, contractual services, and construction of improvements to real property or existing structures in which pricing is the major consideration, the authorized purchasing authority of Leon County may give a preference to local businesses in making such purchase or awarding such contract, in an amount of five percent (5%) of the bid price for purchases under \$250,000, and two percent (2%) of the bid price

for purchases \$250,000 and above. The maximum cost differential shall not exceed \$20,000. Total bid price shall include the base bid and all alternatives or options to the base bids which are part of the bid and being recommended for award by the appropriate authority.

(b) *Preference in Requests for Proposals.* In purchasing of, or letting of contracts for procurement of, personal property, materials, contractual services, and construction of improvements to real property or existing structures for which a request for proposals is developed with evaluation criteria, a local preference of not more than five percent (5%) of the total score may be assigned for a local preference. Based upon analysis of the marketplace for each project, staff shall make a recommendation for or against inclusion of a local preference in the criteria for consideration by the Board as a part of the pre-approval agenda item for each request for proposal.

(c) *Notice.* Both bid documents and request for proposal documents shall include notice to vendors of the local preference policy.

(d) *Local business definition.* For purposes of this section, "local business" shall mean a business which:

(1) Has had a fixed office or distribution point located in and having a street address within Leon County for at least six (6) months immediately prior to the issuance of the request for competitive bids or request for proposals by the County; and

(2) Holds any business license required by the County, and, if applicable, the City of Tallahassee; and

(3) Employs at least one (1) full time employee, or two (2) part time employees whose primary residence is in Leon County, or, if the business has no employees, the business shall be at least fifty percent (50%) owned by one or more persons whose primary residence is in Leon County.

(e) *Certification.* Any vendor claiming to be a local business as defined by Sec. 2-400(d) above, shall so certify in writing to the Purchasing Division. The certification shall provide all necessary information to meet the requirements of Sec. 2-400(d) above. The purchasing agent shall not be required to verify the accuracy of any such certifications, and shall have the

sole discretion to determine if a vendor meets the definition of a "local business."

Section 2. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 3. Severability. If any word, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Effective Date. This ordinance shall have effect upon becoming law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this _____ day of _____, 2002.

LEON COUNTY, FLORIDA

BY: _____
DAN WINCHESTER, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTESTED

BY: _____
BOB INZER, CLERK OF THE COURT

BY: _____
CLERK

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APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

BY: _____
HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY

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